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June 27, 2016

Hon. Laura Taylor Swain
United States Courthouse
Southern District of New York
500 Pearl St.
New York, New York 10007

VIA ECF & FIRST CLASS MAIL

Re: ***Adar Bays, LLC v. Textmunication Holdings, Inc. 16-cv-4235 (LTS)***

Dear Judge Swain:

This firm represents Adar Bays, LLC (“Adar” or “Plaintiff”), plaintiff in the above-captioned action. I write to inform the Court of defendant, Textmunication Holdings, Inc.’s (“TXHD” or “Defendant”) failure to adhere to the Court’s June 8, 2016 Order to Show Cause, Dkt. 3, and to respectfully request that the Court preclude Defendant from relying on any untimely submitted opposition as its direct testimony at the trial of the merits, presently scheduled for July 20, 2016.

On June 8, 2016, the Court modified and entered Plaintiff’s proposed Order to Show Cause seeking preliminary relief related to, *inter alia*, the delivery of shares pursuant to a convertible redeemable note (the “Order”). The Order stated that Plaintiff was to serve the Order to Show Cause, supporting papers, and copies upon Defendant by overnight federal express. On June 8, 2016, counsel for Plaintiff effectuated service pursuant to the Order. Dkt. 5.

The Order also stated that any answering papers must be served on Plaintiff’s counsel and filed via ECF by noon on June 24, 2016. Defendant has failed to serve any opposition on Plaintiff and to file opposition on ECF.

Last, the Order states that Pursuant to Fed. R. Civ. P. 65(a)(2), the hearing in the Order to Show Cause will be consolidated with the trial of the merits of Plaintiff’s claims; that direct testimony will consist of any affidavits filed with the opening, opposition, and reply papers; and that live testimony on disputed issues will be limited to cross-examination.

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